

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 256, As Amended in the Senate, As Amended in the Senate

BY EDUCATION COMMITTEE

AN ACT

RELATING TO PUBLIC SCHOOLS AND TRANSPORTATION SUPPORT; AMENDING SECTION 33-1006, IDAHO CODE, TO PROVIDE THAT THE ONLY MILES FOR WHICH COSTS MAY BE REIMBURSED SHALL BE MILES DIRECTLY ASSOCIATED WITH TRANSPORTING STUDENTS FOR CERTAIN PURPOSES, TO REVISE STATE REIMBURSEMENT FOR CERTAIN COSTS, TO REVISE PROVISIONS RELATING TO THE CALCULATION FOR REIMBURSEMENT, TO REVISE PROVISIONS RELATING TO QUALIFYING AS A HARDSHIP, TO DELETE A LOAN PROVISION, TO PROVIDE THAT THE STATE DEPARTMENT OF EDUCATION SHALL CALCULATE CERTAIN FUNDS LOST, TO PROVIDE FOR DISTRIBUTIONS TO SCHOOL DISTRICTS AND PUBLIC CHARTER SCHOOLS AND TO PROVIDE FOR THE USE OF DISTRIBUTIONS; AMENDING CHAPTER 10, TITLE 33, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 33-1006A, IDAHO CODE, TO PROVIDE THAT THE STATE DEPARTMENT OF EDUCATION SHALL AUDIT CERTAIN TRANSPORTATION OPERATIONS, TO PROVIDE FOR RECOMMENDATIONS AND TO PROVIDE FOR CERTAIN REDUCTIONS IN REIMBURSEMENT; AMENDING SECTION 33-5208, IDAHO CODE, TO REVISE PROVISIONS RELATING TO A CERTAIN APPROPRIATION FOR PUBLIC CHARTER SCHOOLS AND TO REVISE PROVISIONS RELATING TO REIMBURSEMENT FOR PUBLIC CHARTER SCHOOL TRANSPORTATION COSTS; AND DECLARING AN EMERGENCY.

Be It Enacted by the Legislature of the State of Idaho:

SECTION 1. That Section 33-1006, Idaho Code, be, and the same is hereby amended to read as follows:

33-1006. TRANSPORTATION SUPPORT PROGRAM. (1) The state board of education shall determine what costs of transporting pupils, including maintenance, operation and depreciation of basic vehicles, insurance, payments under contract with other public transportation providers whose vehicles used to transport pupils comply with federal transit administration regulations, "bus testing," 49 C.F.R. part 665, and any revision thereto, as provided in subsection (4)(d) of this section, or other state department of education approved private transportation providers, salaries of drivers, and any other costs, shall be allowable in computing the transportation support program of school districts. Provided however, that the only miles for which costs may be reimbursed, shall be those directly associated with transporting students for the purposes of regular school attendance during regular days and hours, or for approved school activities as provided in subsection (4) of this section.

(2) Any costs associated with the addition of vehicle features that are not part of the basic vehicle shall not be allowable in computing the transportation support program of school districts. A basic vehicle is hereby defined as the cost of the vehicle without optional features,

1 plus the addition of essential safety features and features necessary for the transportation of  
2 pupils with disabilities.

3 (3) Each school district shall maintain records and make reports as are required for the  
4 purposes of this section.

5 (4) The transportation support program of a school district shall be based upon the  
6 allowable costs of:

7 (a) Transporting public school pupils one and one-half (1 1/2) miles or more to school;

8 (b) Transporting pupils less than one and one-half (1 1/2) miles as provided in section  
9 33-1501, Idaho Code, when approved by the state board of education;

10 (c) The costs of payments when transportation is not furnished, as provided in section  
11 33-1503, Idaho Code;

12 (d) The transportation program for grades six (6) through twelve (12), upon the costs  
13 of payments pursuant to a contract with other public or private transportation providers  
14 entered into as provided in section 33-1510, Idaho Code, if the school district establishes  
15 that the reimbursable costs of transportation under the contract are equal to or less than  
16 the costs for school buses;

17 (e) The costs of providing transportation to and from approved school activities as may  
18 be approved by rules of the state board of education;

19 (f) The employer's share of contributions to the public employee retirement system and  
20 to social security.

21 (5) The state's share of the transportation support program shall be ~~eighty-five~~ fifty  
22 percent (~~85~~50%) of reimbursable transportation costs of the district incurred during the  
23 immediately preceding state fiscal year, except for the cost of state department of education  
24 training and fee assessments and bus depreciation and maintenance, for which the state's  
25 share shall be eighty-five percent (85%) of such costs. For school districts that contract for  
26 pupil transportation services, the state's share shall be the average state share of costs for  
27 district-run operations, based on the statewide total of such costs. Provided however, that  
28 the reimbursable costs do for any school district shall not exceed one hundred three percent  
29 (103%) of the statewide average reimbursable cost per mile or the state average reimbursable  
30 cost per student rider, whichever is more advantageous to the school district. If a school  
31 district's costs exceed the one hundred three percent (103%) limit when computed by the more  
32 advantageous of the two (2) methods, that school district shall be reimbursed at ~~eighty-five~~  
33 the appropriate percentage designated by this subsection, multiplied by (~~85~~50%) of the maximum  
34 limit for whichever method is more favorable to the school district. A school district may  
35 appeal the application of the one hundred three percent (103%) limit on reimbursable costs to  
36 the state board of education, which may establish for that district a new percentile limit for  
37 reimbursable costs compared to the statewide average, which is higher than one hundred three  
38 percent (103%). In doing so, the state board of education may set a new limit that is greater  
39 than one hundred three percent (103%), but is less than the percentile limit requested by the  
40 school district. However, the percentage increase in the one hundred three percent (103%) cap  
41 shall not exceed the percentage of the district's bus runs that qualify as a hardship bus run,  
42 pursuant to this subsection. Any costs above the new level established by the state board of  
43 education shall not be reimbursed. Such a change shall only be granted by the state board of  
44 education for hardship bus runs. To qualify as a hardship bus run, such bus run shall display  
45 uniquely difficult geographic circumstances and meet at least two (2) of the following criteria:

(a) The number of student riders per mile is less than fifty percent (50%) of the statewide average number of student riders per mile;

(b) Less than a majority of the miles on the bus run are by paved surface, concrete or asphalt, road;

(c) Over ten percent (10%) of the miles driven on the bus run are a five percent (5%) slope or greater.

The legislative audits section of the legislative services office shall review cap increases granted by the state board of education pursuant to this section, and shall include findings in the board's regular audit report for any instances in which such increases failed to meet the standards set forth in this subsection.

~~(6) School districts that are unable to absorb the impact of the limitation on reimbursable expenses, through either efficiencies or the utilization of fund balances, may apply to the state board of education to receive a loan of moneys, not to exceed the amount of state funds lost through the application of the limitation on reimbursable expenses, from the public education stabilization fund. Any school district receiving such a loan shall cause its reimbursement of state transportation moneys to be reduced by a like amount in the subsequent fiscal year, and the moneys so reduced shall be deposited in the public education stabilization fund.~~

~~(7)~~ Beginning on July 1, 2005, any eligible home-based public virtual school may claim transportation reimbursement for the prior fiscal year's cost of providing educational services to students. In order to be eligible, such a school shall have at least one (1) average daily attendance divisor, pursuant to section 33-1002, Idaho Code, that is greater than the median divisor shown for any category of pupils, among the actual divisors listed. For the purposes of paragraphs (a), (b) and (c) of this subsection ~~(7)(6)~~, "education provider" means the home-based public virtual school or an entity that has legally contracted with the home-based public virtual school to supply education services. Reimbursable costs shall be limited to the costs of:

(a) Providing an internet connection service between the student and the education provider, not including the cost of telephone service;

(b) Providing electronic and computer equipment used by the student to transmit educational material between the student and the education provider;

(c) Providing a toll-free telephone service for students to communicate with the education provider;

(d) Providing education-related, face-to-face visits by representatives of the home-based public virtual school, with such reimbursements limited to the mileage costs set for state employee travel by the state board of examiners; and

(e) Any actual pupil transportation costs that would be reimbursable if claimed by a school district.

The total reimbursement for such home-based public virtual schools shall be exempt from the statewide average cost per mile limitations of this section. The state's share of reimbursable costs shall be eighty-five percent (85%), subject to the statewide cost per student rider provisions of this section. For the purposes of such home-based public virtual school, the number of student riders shall be the same as the number of pupils in average daily attendance.

(7) The state department of education shall calculate the amount of state funds lost in fiscal year 2010 by each school district as a result of the decrease in the state reimbursement from eighty-five percent (85%) to fifty percent (50%) of certain eligible costs, including the reduction calculated for districts that contract for pupil transportation services, and excluding any reductions made due to the limitation on reimbursable expenses, all pursuant to subsection

(5) of this section. The amount so calculated shall be distributed to each school district in fiscal year 2010. For each fiscal year thereafter, the amount distributed pursuant to this subsection (7) for each school district shall be determined as follows:

(a) Divide the amount distributed to the district pursuant to this subsection (7) in fiscal year 2010 by the district's support units for fiscal year 2010;

(b) Multiply the result of the calculation found in subsection (7)(a) of this section by the number of support units in the current fiscal year;

(c) Determine the percentage change in statewide transportation reimbursements as provided for in subsection (5) of this section since fiscal year 2010;

(d) Determine the percentage change in statewide student enrollment since fiscal year 2010;

(e) Subtract the result of the calculation found in subsection (7)(d) of this section from the result of the calculation found in subsection (7)(c) of this section;

(f) Adjust the result of the calculation found in subsection (7)(b) of this section by the percentage result from subsection (7)(e) of this section.

For school districts divided after fiscal year 2010, the calculation in subsection (7)(a) of this section shall still be based on the fiscal year 2010 figures for the formerly consolidated district. For public charter schools beginning operations on or after July 1, 2009, all calculations in this subsection (7) that are based on fiscal year 2010 shall instead be based on the public charter school's first fiscal year of operations. For the purposes of this subsection (7), the support units used shall be the number used for calculating salary-based apportionment. Funds distributed pursuant to this subsection (7) shall be used to defray the cost of pupil transportation. If the amount distributed is in excess of a school district's actual pupil transportation costs, less any state reimbursements provided by subsection (5) of this section, the excess funds may be used at the school district's discretion.

SECTION 2. That Chapter 10, Title 33, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 33-1006A, Idaho Code, and to read as follows:

33-1006A. PUPIL TRANSPORTATION AUDITS. The state department of education shall audit the transportation operations of any school district with more than twenty (20) enrolled students per square mile that meets both of the following criteria:

(a) The school district's reimbursable costs, based on a three (3) year rolling average of the district's reimbursable costs, exceed one hundred three percent (103%) of the statewide average reimbursable cost per student rider; and

(b) The school district's costs, based on a three (3) year rolling average, are higher on a cost per student rider basis than on a cost per mile basis, as compared to the statewide average reimbursable costs for such measures.

For school districts audited under the provisions of this section, the state department of education shall furnish written recommendations for changes to improve the efficiency of transportation operations including, but not limited to, changes in bell times and routing. Recommendations shall not include changes regarding the decision of a school district on whether to contract for pupil transportation services or to provide such services directly. The recommendations shall state the amount that the department estimates that the school district's total expenditures will be reduced by implementing each recommendation. The department shall discuss its recommendations with the school district prior to finalizing them.

School districts failing to implement any recommendations in the subsequent school year shall have their transportation reimbursement reduced in that year by the lesser of the amount that the department estimated would be saved by all unimplemented recommendations, or the amount that the district's reimbursement would be reduced if the district were prohibited from using the cost per mile cap calculation pursuant to section 33-1006(5), Idaho Code.

SECTION 3. That Section 33-5208, Idaho Code, be, and the same is hereby amended to read as follows:

33-5208. PUBLIC CHARTER SCHOOL FINANCIAL SUPPORT. Except as provided in subsection (8) of this section, from the state educational support program the state department of education shall make the following apportionment to each public charter school for each fiscal year based on attendance figures submitted in a manner and time as required by the department of education:

(1) Per student support. Computation of support units for each public charter school shall be calculated as if it were a separate school according to the schedules in section 33-1002(4), Idaho Code, except that public charter schools with fewer than one hundred (100) secondary ADA shall use a divisor of twelve (12) and the minimum units shall not apply, and no public charter school shall receive an increase in support units that exceeds the support units it received in the prior year by more than thirty (30). Funding from the state educational support program shall be equal to the total distribution factor, plus the salary-based apportionment provided in chapter 10, title 33, Idaho Code. Provided however, any public charter school that is formed by the conversion of an existing traditional public school shall be assigned divisors, pursuant to section 33-1002, Idaho Code, that are no lower than the divisors of the school district in which the traditional public school is located, for each category of pupils listed.

(2) Special education. For each student enrolled in the public charter school who is entitled to special education services, the state and federal funds from the exceptional child education program for that student that would have been apportioned for that student to the school district in which the public charter school is located.

(3) Alternative school support. Public charter schools may qualify under the provisions of sections 33-1002 and 33-1002C, Idaho Code, provided the public charter school meets the necessary statutory requirements, and students qualify for attendance at an alternative school as provided by rule of the state board of education.

(4) Transportation support. Support shall be paid to the public charter school as provided in chapter 15, title 33, Idaho Code, and section 33-1006, Idaho Code. Each public charter school shall furnish the department with an enrollment count as of the first Friday in November, of public charter school students living who are eligible for reimbursement of transportation costs under the provisions of this subsection and who reside more than one and one-half (1 1/2) miles from the school. For charter schools in the initial year of operation, the petition shall include a proposal for transportation services with an estimated first year cost. The state department of education is authorized to include in the annual appropriation to the charter school eighty six percent (86%) of the estimated transportation cost. The final appropriation payment in July shall reflect eighty five percent (85%) of the actual cost reimbursements of actual costs pursuant to section 33-1006, Idaho Code. To be eligible for state reimbursement under the provisions of section 33-1006, Idaho Code, the student to be transported must reside

1 within the public charter school's attendance zone, and must meet at least one (1) of the  
 2 following two (2) criteria:

3 (a) The student resides within the school district in which the public charter school is  
 4 physically located; or

5 (b) The student resides within fifteen (15) miles of the public charter school, by road.

6 The limitations placed by this subsection on the reimbursement of transportation costs for  
 7 certain students shall not apply to public virtual schools.

8 (5) Payment schedule. The state department of education is authorized to make an  
 9 advance payment of twenty-five percent (25%) of a public charter school's estimated annual  
 10 apportionment for its first year of operation, and each year thereafter, provided the public  
 11 charter school has an increase of student population in any given year of twenty (20) students  
 12 or more, to assist the school with initial start-up costs or payroll obligations.

13 (a) For a state public charter school to receive the advance payment, the school shall  
 14 submit its anticipated fall membership for each grade level to the state department of  
 15 education by June 1.

16 (b) Using the figures provided by the public charter school, the state department of  
 17 education shall determine an estimated annual apportionment from which the amount of  
 18 the advance payment shall be calculated. Advance payment shall be made to the school  
 19 on or after July 1 but no later than July 31.

20 (c) All subsequent payments, taking into account the one-time advance payment made for  
 21 the first year of operation, shall be made to the public charter school in the same manner  
 22 as other traditional public schools in accordance with the provisions of section 33-1009,  
 23 Idaho Code.

24 A public charter school shall comply with all applicable fiscal requirements of law, except that  
 25 the following provisions shall not be applicable to public charter schools: section 33-1003B,  
 26 Idaho Code, relating to guaranteed minimum support; that portion of section 33-1004, Idaho  
 27 Code, relating to reduction of the administrative and instructional staff allowance when there  
 28 is a discrepancy between the number allowed and the number actually employed; and section  
 29 33-1004E, Idaho Code, for calculation of district staff indices.

30 (6) Nothing in this chapter shall be construed to prohibit any private person or  
 31 organization from providing funding or other financial assistance to the establishment or  
 32 operation of a public charter school.

33 (7) Nothing in this chapter shall prevent a public charter school from applying for federal  
 34 grant moneys.

35 (8) (a) For the period July 1, 2003, through June 30, 2005, all public virtual schools  
 36 shall be assigned divisors, pursuant to section 33-1002, Idaho Code, that are no higher  
 37 than the median divisor shown for each respective category of pupils, among the possible  
 38 divisors listed, for each respective category of pupils that contains more than one (1)  
 39 divisor. If there is an even number of possible divisors listed for a particular category of  
 40 pupils, then the lesser of the two (2) median divisors shall be used. For the period July  
 41 1, 2005, through June 30, 2007, all public virtual schools shall be assigned divisors,  
 42 pursuant to section 33-1002, Idaho Code, that are no higher than the second highest  
 43 divisor shown, among the possible divisors listed, for each respective category of pupils  
 44 that contains more than one (1) divisor. The divisor provisions contained herein shall  
 45 only be applicable to the number of pupils in average daily attendance in such public  
 46 virtual schools for the period July 1, 2003, through June 30, 2004. If the number of

1 pupils in average daily attendance in any particular category of pupils increases, during  
2 the period July 1, 2004, through June 30, 2005, to a number above that which existed  
3 in the prior fiscal year, then those additional pupils in average daily attendance shall be  
4 assigned the divisor, pursuant to section 33-1002, Idaho Code, that would have otherwise  
5 been assigned to the school district or public charter school had this section not been in  
6 force.

7 (b) Each student in attendance at a public virtual school shall be funded based upon  
8 either the actual hours of attendance in the public virtual school on a flexible schedule, or  
9 the percentage of coursework completed, whichever is more advantageous to the school,  
10 up to the maximum of one (1) full-time equivalent student.

11 (c) All federal educational funds shall be administered and distributed to public charter  
12 schools, including public virtual schools, that have been designated by the state board of  
13 education as a local education agency (LEA), as provided in section 33-5203(7), Idaho  
14 Code.

15 (9) Nothing in this section prohibits separate face-to-face learning activities or services.

16 SECTION 4. An emergency existing therefor, which emergency is hereby declared to  
17 exist, Section 2 of this act shall be in full force and effect on and after passage and approval.